

**DEPARTMENT OF STATE REVENUE  
LETTER OF FINDINGS NUMBER: 00-0107 IFTA  
International Fuel Tax Agreement (IFTA)  
For Years 1996, 1997, AND 1998**

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**ISSUES**

**I. IFTA – Filing IFTA Returns**

**Authority:** IC § 6-6-4.1-2; IC § 6-6-4.1-4(a); IC § 6-6-4.1-4.5; IFTA II K

Taxpayer protests audit assessment based on the state's failure to provide him with returns.

**II. IFTA – Credit for Taxes Paid**

**Authority:** IC § 6-6-4.1-4.5

Taxpayer protests that corporation did not receive credit for taxes on fuel paid for at the pump in 1996.

**STATEMENT OF FACTS**

Taxpayer is in the business of selling and delivering sand, stone, and gravel. Taxpayer operated subject vehicles and had been filing IFTA returns until 1996. In 1997 and 1998 the Department mailed, but taxpayer alleges he did not receive, the IFTA tax returns. In 1999 taxpayer asked at a district office about the taxpayer's IFTA account while obtaining his IRP plates. The staff person reported that the fuel account number did not come up on the computer and that taxpayer should reapply for an IFTA account. Taxpayer declined this suggestion and left.

**I. IFTA - Filing IFTA Returns**

**DISCUSSION**

Taxpayer asserts his failure to pay taxes was based on the state's failure to provide him with the appropriate tax returns. Leaving aside the factual question of what returns the state did or did not forward to the taxpayer, IC § 6-6-4.1-2 states vehicles subject to the motor carrier fuel tax law include a:

- (5) truck having a gross weight or a declared gross weight greater than 26,000 pounds; and
- (6) vehicle used in combination if the gross weight or the declared gross weight of the combination is greater than 26,000 pounds....

IFTA II K tracks with the Indiana statute's definition of a qualified vehicle as follows:

"Qualified Motor Vehicle" means a motor vehicle used, designed, or maintained for transportation of persons or property and:

- (1) Having two axles and a gross vehicle weight or registered gross vehicle weight exceeding 26,000 pounds or 11,797 kilograms; or
- (2) Having three or more axles regardless of weight; or
- (3) Is used in combination when the weight of such combination exceeds 26,000 pounds or 11,797 kilograms gross vehicle or registered gross vehicle weight. "Qualified Motor Vehicle" does not include recreational vehicles.

Taxpayer makes no claim or argument that the vehicles operated by the taxpayer corporation are not subject to the tax assessed. The taxes in question are defined in relevant part by IC § 6-6-4.1-4(a):

A tax is imposed on the consumption of motor fuel by a carrier in its operations on highways in Indiana. The rate of this tax is the same rate per gallon as the rate per gallon at which special fuel is taxed under IC 6-6-2.5. The tax shall be paid quarterly by the carrier to the department on or before the last day of the month immediately following the quarter.

As well as IC § 6-6-4.1-4.5:

A surcharge tax is imposed on the consumption of motor fuel by a carrier in its operations on highways in Indiana. The rate of this surcharge tax is eleven cents (\$0.11) per gallon. The tax shall be paid quarterly by the carrier to the department on or before the last day of the month immediately following the quarter.

Both of the above statutes place an explicit duty (“the tax shall be paid”) on the taxpayer to provide payment of the tax without the state’s assistance. Taxpayer does not cite any statute, regulation, or IFTA provision suggesting the state has a duty to provide the necessary forms or that a failure by the state to provide these forms nullifies the above cited statutes.

Inasmuch as taxpayer was paying and filing IFTA returns into 1996, taxpayer was aware of these taxes and the procedures for filing. As to the events outlined in the facts, taxpayer may not have received the IFTA forms, but this in no way relieves taxpayer of the aforementioned statutory duties.

### **FINDINGS**

Taxpayer protest denied.

## **II. IFTA – Credit for Taxes Paid**

### **DISCUSSION**

In the hearing, taxpayer stated that all taxes were paid at the pump in 1996, that \$0.16 went to the state and \$0.24 to the Federal government from each gallon purchased at the pump, indicating taxpayer was not cognizant of the \$0.11 surcharge imposed by IC § 6-6-4.1-4.5, which states in relevant part:

A surcharge tax is imposed on the consumption of motor fuel by a carrier in its operations on highways in Indiana. The rate of this surcharge tax is eleven cents (\$0.11) per gallon. The tax shall be paid quarterly by the carrier to the department on or before the last day of the month immediately following the quarter.

A review of the IFTA Quarterly Report Schedule A (IFTA-101A) for the relevant quarters indicates taxpayer did receive \$0.16 per gallon credit for fuel purchased at the pump. Taxpayer’s confusion is based on the additional \$0.11 surcharge for subject vehicles that is not collected at the pump. Inasmuch as a review of the audit indicates taxpayer received the \$0.16 per gallon credit in the 1996 calculations and taxpayer cited no other area of deficient credits, the protest is not sustained.

### **FINDINGS**

Taxpayer protest denied.